

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TAWNY BRYCE SAVAGE,

Defendant.

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NO. CIV-16-0082-HE

NO. CR-14-0158-HE

ORDER

The Court of Appeals for the Tenth Circuit has entered an order abating defendant's appeal pending a decision by this court on defendant's request for a certificate of appealability ("COA"). Given that this court construed defendant's Rule 60(b) motion as a second or successive motion to vacate pursuant to 28 U.S.C. § 2255 which the court did not have jurisdiction to rule on, *see In re Cline*, 531 F.3d 1249, 1251-52 (10th Cir. 2008), it is unclear why a ruling on a COA is necessary. Regardless, because defendant has not "made a substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), a COA is **DENIED**.

IT IS SO ORDERED.

Dated this 6th day of November, 2018.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE